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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/549,372
Filing Date: September 14, 2005
Appellant(s): VAN ROMPAEY ET AL.

Dicran Halajian, Reg. 39, 703
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/16/2009 appealing from the Office action mailed 9/14/2009.

(1) Real Party in Interest

The real party in interest in this appeal is the assignee of record, Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

Appellant's statement of status of amendments after final rejection contained in the brief is correct. This appeal involves claims 1 - 13.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,526,019	Yoshimoto et. al.	02-2003
5,661,703	Moribe et. al.	8-1997
6,125,089	Shigemori	09-2000
7,280,461	Endoh	8-2007
2004/0044567	Willis	3-2004
2004/0032813	Lee et. al.	02-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4, 8 – 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto et. al. [US 6,526,019] in view of Moribe et. al. [US 5,661,703].

Regarding claim 1, Yoshimoto teaches:

- a data carrier **[fig. 21]** comprising a first area **[fig. 21, O-ROM area, note non-rewritable area]**
- a second area comprising a rewritable material **[fig. 21, R/W area],**
- said first area being defined as a read-only area by means of type information recorded on said data carrier in a type area which is different from said first area **[structure management table 20, note zones are listed independently from the table, which means the table must be in a different area of the disc than the first area].**

Yoshimoto does not teach:

- type information recorded on said data carrier in an inerasable way

Moribe teaches:

- type information recorded on said data carrier in an inerasable way **[abstract]**

It would have been obvious at the time of the invention to one with ordinary skill in the art to modify the data carrier taught by Yoshimoto to include the use of the inerasable writing taught by Moribe because the inerasable mark could be used to prevent illegal copy of the data carrier **[Moribe, abstract]**

Regarding claim 2, Yoshimoto also teaches:

- Wherein said first area and said second area are being parts of a same layer of said data carrier **[claim 1, note that each layer has both 1st and 2nd areas]**

Regarding claim 3, Moribe teaches:

- said data carrier comprising a central part **[fig. 9]**, the first area being nearer to said central part than the second area **[fig. 9, S1 and S2]** for recording content by a manufacturer **[s1, note medium ID is written by the manufacturer]** of the data carrier and the second area is for recording data by a user of the data carrier **[S2]**.

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto with the first and second area locations taught by Moribe because the inside area could be used to unerasably record a unique medium identification code **[Moribe, claim 20]**

Regarding claim 4, Moribe teaches:

- said type information recorded by means of pits and lands **[col. 13, line 49]**.

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto with the pits and lands taught by

Moribe because pre-stamped pits and lands cannot be erased by means of laser rewriting.

Regarding claims 8-10, Yoshimoto also teaches:

- wherein the type information include location of the first area **[fig. 20, 'O-ROM' area indicated by zone number]**
- wherein the type information include type **[R/W, WO, O-ROM, etc]** and location of the first area and the second area **[byte number and zone numbers indicated location]**.
- wherein an area of the data carrier having no associated type information in the type area comprises a rewritable area **[col. 5, lines 52 – 56, note that since all of the type area section could be rewritten with permission, part of the type area without specific designation could also be rewritten]**.

Regarding claim 12, Yoshimoto teaches:

- A method of writing on a data carrier comprising the acts of: writing content in a first area of the data carrier **[col. 6, lines 12 – 20]**; and
- after the act of writing recording, in a type area in an unerasable way, type information that defines the first area as a read-only area; wherein the type area is different from the first area **[col. 6, lines 12 – 20, note that the zones would be altered (i.e. written) after copying the data]**.

Yoshimoto does not teach:

- type information recorded on said data carrier in an inerasable way

Moribe does teach:

- type information recorded on said data carrier in an inerasable way

[abstract]

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the method taught by Yoshimoto with the inerasable writing taught by Moribe because the inerasable mark could be used to prevent illegal copy of the data carrier **[Moribe, abstract]**

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe in view of Shigemori [US 6,125,089].

Regarding claim 5, Yoshimoto in view of Moribe teaches

- The data carrier as in claim 1 that contains type information

However, Yoshimoto Moribe does not teach

- wherein type information is recorded by means of a frequency modulated wobble.

Shigemori teaches

- a data carrier wherein information is recorded by means of a frequency modulated wobble **[col. 1, line 22]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto in view of Moribe with the means of

recording by frequency modulation wobble with the data carrier taught by Shigemori because it is well known in the art that optical disks recorded using FM wobble can be later demodulated to obtain time codes for each sector on the optical disk **[Shigemori, col. 1, line 23]**

Regarding claim 6, Shigemori teaches:

- a rewritable Compact Disc **[col. 1, line 17]** wherein the type information of the lead-in area of the optical disk encoded as Absolute Time in Pre-groove data **[col. 1, line 31]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the method of recording data in the lead-in area of the optical disk encoded as Absolute Time In Pre-groove data taught by Shigemori with the Compact Disk with type information taught by Yoshimoto in view of Moribe because the Absolute Time in Pre-Groove area is used to encode many types of data including synchronization data **[Shigemori, col. 1, line 36]**.

Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe in view of Shigemori, as applied to claim 5 above, and further in view of Endoh [US 7,280,461].

Yoshimoto in view of Moribe in view of Shigemori does not teach:

- wherein type information is encoded as Permanent Information and control data.

Endoh teaches:

- wherein type information is recorded by mean of frequency modulated wobble **[col. 16. line 44]**, and information is encoded as Permanent Information and control data **[col.16, line 40]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine disc wherein type information is recorded by means of frequency modulated wobble and information is encoded as Permanent Information and control data taught by Endoh with the data carrier taught by Yoshimoto in view of Moribe in view of Shigemori because the several types of data can be coded as Permanent Information and Control data, such as Table of Contents data **[Endoh, col. 3. line 51 - 52]**

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe as applied to claim 1 above, and further in view of Willis **[2004/0044567]**

Yoshimoto in view of Moribe do not teach:

- wherein content of the read-only area includes an advertisement.

Willis teaches:

- wherein content of the read-only area includes an advertisement **[\$0052, note advertisements are stored on a read-only memory.]**

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto in view of Moribe with read-only

advertisements taught by Willis because other information (such as medium reading/writing parameters) could be stored in the read-only area.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe as applied to claim 12 above, and further in view of Lee et. al. [2004/0032813].

Regarding claim 13, Yoshitomo in view of Moribe do not teach:

- wherein the recording act is performed by adding the type information in a wobble, and printing a wobbled groove on the data carrier including the wobble.

Lee does teach:

- wherein the recording act is performed by adding the type information in a wobble, and printing a wobbled groove on the data carrier including the wobble **[fig. 10, also see §0063]**.

It would have been obvious to one with ordinary skill in the art at the time of invention to combine the method taught by Yoshimoto in view of Moribe with the printed wobble taught by Lee because it would allow good reproducing characteristics if the disc had more than one layer **[Lee, §0065]**.

(10) Response to Argument

Regarding claims 1 and 12, applicant argues that Yoshimoto in view of Moribe do not teach a first area being defined as a read-only area by type information recorded on

said data carrier in an unerasable way in a type area which is different from said first area. The examiner respectfully disagrees.

As noted in the citations above, Yoshimoto does teach that the first area **[fig. 21, 'O-ROM' area]** is defined as read-only area by type information recorded in the data carrier **[fig. 20, structure management table located on disc which describes the 'type' of each area on the disc]** in a type area that is different from said first area **[fig. 20 is a detailed picture of the structure management table that shows that the table itself is clearly separate (and therefore 'different') from the read-only areas (O-ROM) that it defines.]**

Regarding claims 1 and 12, applicant also argues that Yoshimoto in view of Moribe do not teach that the type information is recorded on the disc in an uneraseable way. Specifically, applicant argues that the non-volatile (i.e. not erasable) mark on a disc medium that is taught by Moribe is not "type information". The examiner respectfully disagrees.

In the rejection of claim 1, Moribe is used to show that it would be obvious to one with ordinary skill in the art to record data onto an optical medium in a non-volatile way. Furthermore, the rejection of claim 1 indicates that Yoshimoto teaches "type information" **[the structure management table]**, but does not teach that the information is recorded in a non-volatile manner. It is therefore irrelevant that Moribe does not teach that the non-volatile mark is used to define an area as read only because the above rejection did not rely on Moribe to teach that claim element.

However, it should be noted that while the Moribe reference was not relied upon to specifically teach an optical disc with "type information", the "type information" taught in claim 1 can be interpreted to read on the identification code taught by Moribe **[fig. 9, item S1, also note the ID code taught in col. 4, lines 1-6 where the identification code is used to teach the disc is a certain type (authentic as opposed to pirated)]**.

Regarding claim 12, applicant argues that Yoshimoto in view of Moribe do not teach that "...after the act of writing recording, in a type area in an unerasable way, type information that defines the first area as a read-only area...". Specifically, the applicant argues that Yoshimoto only 'alters' the type data after recording. The examiner respectfully disagrees.

Yoshimoto teaches recording type information in a type area **[Yoshimoto, fig. 20, structure management table]** that defines a first area as a read-only area **[fig. 21, O-ROM area, defined by the structure management table in fig. 20]** after the act of writing **[col. 6, lines 12 – 20, '...the attributes of the zones may be altered before and after copying of the data]**. Examiner is does not believe that there is a difference in 'altering data' or 'recording data' on an optical medium, as 'altering' data on an optical disc inherently requires that data be written (i.e. recorded) on the disc.

Regarding claim 9, applicant argues that Yoshimoto does not teach the "type information" includes "type and location of the first area and the second area". The examiner respectfully disagrees.

Yoshitomo teaches a structure management table on fig. 20 that clearly indicates 'type' [R/W, WO, O-ROM, etc] and 'location' [byte number and zone numbers indicated location].

Claims 2 – 11 and 13 are argued by applicant as allowable due to their dependence to their respective parent claims. In light of the above arguments, claims 2 – 11 and 13 are not allowable due to the art rejections made above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/ANDREW J SASINOWSKI/

Examiner, Art Unit 2627

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